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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/274,197 03/22/99 FUJIOKA

Y 2309/0F390

EXAMINER

QM12/0830

DARBY & DARBY  
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NEW YORK NY 10022

REICHLE, K

ART UNIT

PAPER NUMBER

3761

DATE MAILED:

08/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/27/197

Applicant(s)

Fujioka et al

Examiner

Reverie

Group Art Unit

3761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 3-22-99
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-20 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☒ The drawing(s) filed on 3-22-99 is/are objected to by the Examiner
- ☒ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some\* ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 344
- ☒ Notice of Reference(s) Cited, PTO-892
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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The abstract of the disclosure is objected to because on line 4, after "faces" a word or words appears to be missing. Correction is required. See MPEP § 608.01(b).

The drawings are objected to because in Figures 1A and 2 the line from 23 should be dashed to denote underlying structure. This also applies to be the line from 24 and the members 24 in Figure 1A-2. In Figures 2, 3, 5, the lines from 24 and 5 should be dashed to denote underlying structure. In Figure 4, the same lines extend to two different denotations, 22a and (a), which should be avoided. Differently configured structures have been given the same designation, 28, in Figure 1C and 5. Where in Figure 4 are elements 26 and 28? In Figures 6A-6B, and 8A-9, the elastic members should be shown by dashed members. Correction is required.

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: page 6, line 1, page 16, line 18.

The disclosure is objected to because of the following informalities: The Summary of the Invention Section, i.e. a description of the claimed invention, and the invention as claimed, i.e. dependent claims, is not commensurate in scope. See MPEP 608-01(d) and 1302.01.

Appropriate correction is required.

Claims 1-20 are objected to because of the following informalities: in claim 1, line 2, "which faces the wearer" should be --which faces a wearer in use --. On line 3, before "another",

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-- the -- or -- said -- should be inserted. In regard to claim 12, see discussion of claim 1. In claims 19-20, line 3, before "another", -- the -- or -- said -- should be inserted.

. Appropriate correction is required.

Claims 1-11 and 17-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 1, the preamble, i.e. "to be ... article" and line 3, "in contact with", are inconsistent, i.e. is the invention both articles or just one? In claims 5 and 6, are the openings in these claims and that in claim 1 one and the same? In regard to claims 7-10, a positive structural antecedent basis for "the adhesive means" should be defined. In claim 17, a positive structural antecedent basis for "the side layers" should be defined, i.e. on line 2 of claim 16 should "both" be -- each --?

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

Claims 1-6, and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by The P&G Company, EP '314.

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See Figures, page 4, lines 37-50, page 5, lines 15-36, page 7, lines 41-44, page 6, line 54- page 7, line 1, page 7, lines 13-19, 29-32, 41-44 and page 9, lines 30-32 (claim 3). Claim 11: see elements, e.g., 70, 71, 72, 73.

Claims 12-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Karami '310.

See Figures (first adhesive is adhesive 20, 22 revealed in Figure 1, and second adhesive is adhesive under nonstripped away 24 adjacent revealed adhesive, liquid side layer of claim 16 is shown having holes 28 in Figure 3).

Claims 1-7, 9-14, 16-17 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ahr et al '624.

See Figures and column 4, line 21 - column 5, line 47, see especially column 5, lines 32-35 (claims 3, 7, 9-10, 14, 17), col. 5, lines 17-20 (claims 7, 9-10, 14, 17), col. 4, lines 22-30 (claim 11), col. 5, lines 24-27 (claims 14 and 17), column 4, lines 62-63 (claim 16), element 36 (claims 19-20).

Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Ahr 'H1724.

See Figures, column 6, lines 41-46 and column 4, lines 39-43.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahr et al '624.

Applicant claims a first adhesive in a striped pattern. While Ahr et al discloses a first adhesive, column 5, lines 31-35, the pattern thereof is not disclosed. However, see Ahr et al '624, col. 4, lines 25-30, i.e. striped pattern of adhesive is attachment means well known in art. To make the adhesive of Ahr et al of a striped pattern would be obvious to one of ordinary in the art in view of the recognition that such pattern is well known for adhesives defining attachment means.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other patents show various article combinations or attachment means.

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Any inquiry concerning this communication should be directed to K. Reichle at telephone  
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*K. M. Reichle*  
**Karin M. Reichle**  
Patent Examiner

K. Reichle:bhw  
August 20, 2001